

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

SYMBOLOGY INNOVATIONS, LLC,

Plaintiff,

v.

MATCO TOOLS CORPORATION,

Defendant.

CASE NO. 3:17-cv-155-slc

PATENT CASE

JURY TRIAL DEMANDED

**DEFENDANT MATCO TOOLS CORPORATION'S**  
**MOTION TO DISMISS FOR IMPROPER VENUE**

Pursuant to Federal Rule of Civil Procedure 12(b)(3) and 28 U.S.C. § 1406(a), Defendant Matco Tools Corporation ("Matco") respectfully requests that this Court dismiss all claims in Plaintiff Symbology Innovations, LLC's Complaint for improper venue. Matco is a Delaware corporation with its principal place of business in Ohio and thus does not "reside" in this judicial district. Any alleged infringement through "internal testing" did not occur in this judicial district. Thus venue is improper under 28 U.S.C. § 1400(b) and the Supreme Court's recent ruling in *TC Heartland v. Kraft Foods Grp. Brands LLC*, No. 16-341, 581 U.S. \_\_\_, 2017 WL 2216934 (May 22, 2017).

In support of this Motion, Matco relies on the following, which are being filed simultaneously hereto:

- Defendant Matco Tools Corporation's Brief in Support of Motion to Dismiss for Improper Venue; and
- Declaration of Matthew Stump.

**WHEREFORE**, Matco respectfully requests that this Court grant the instant Motion and dismiss Plaintiff's claims for improper venue.

Date: June 13, 2017

Respectfully submitted,

By: /s/ Neil J. McNabnay

Neil J. McNabnay  
Texas Bar No. 24002583  
mcnabnay@fr.com  
Ricardo J. Bonilla  
Texas Bar No. 24082704  
rbonilla@fr.com  
Theresa M. Dawson  
Texas Bar No. 24065128  
tdawson@fr.com

**FISH & RICHARDSON P.C.**

1717 Main Street, Suite 5000  
Dallas, Texas 75201  
Telephone: 214.747.5070  
Facsimile: 214.747.2091

**COUNSEL FOR DEFENDANT  
MATCO TOOLS CORPORATION**